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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

8 R&D FILM 1, LLC,

9 Plaintiff,

10 v.

11 DOES 1 - 41,

12 Defendants.  
13

Case No. C13-0052RSL

ORDER TO SHOW CAUSE AND  
QUASHING SUBPOENAS

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15 This action was filed on January 8, 2013. It is one of forty-eight copyright  
16 infringement actions filed during a four month period by attorney Richard J. Symmes  
17 against approximately 2,323 individual Doe defendants. The forty-one defendants in this  
18 case are represented by IP addresses linked to on-line sharing of the movie "The Divide"  
19 between 8:02 am on October 20, 2012, and 6:50 am on January 6, 2013. Although the  
20 evidence of internet activity shows that hours, if not days, separated each defendant's  
21 allegedly infringing conduct, plaintiff alleges that all forty-one defendants participated in  
22 a single "swarm" utilizing interactive peer-to-peer file transfer technology protocol called  
23 a BitTorrent to illegally copy and share "The Divide." Plaintiff affirmatively alleges that  
24 the "swarm" aspect of the file-sharing justifies joinder of these disparate defendants in a  
25 single lawsuit.  
26

1 On February 14, 2013, the Court granted plaintiff's motion to initiate early  
2 discovery, including the issuance of subpoenas under Fed. R. Civ. P. 45 to internet  
3 service providers, in an attempt to identify each Doe defendant. Only one defendant has  
4 filed objections to the subpoena. Dkt. # 8. Despite the fact that more than two months  
5 have elapsed since discovery was authorized, there is no indication that any defendants  
6 have been timely served (see Fed. R. Civ. P. 4(m)),<sup>1</sup> nor has plaintiff amended its  
7 complaint to identify the Doe defendants.

8 All BitTorrent cases filed in the Western District of Washington have been  
9 referred to the undersigned for pretrial handling. As the full extent of this assignment has  
10 become clear, the Court admits to some concerns regarding both the appropriateness of  
11 joinder and the possibility that the judicial authority of the United States may be used to  
12 wrest improvident settlements from pro se litigants under threat of huge statutory  
13 penalties. The Court is not alone: other judicial officers in the Ninth Circuit are beset by  
14 the same concerns and have taken various paths to mitigate the potential for abuse. See,  
15 e.g., Ingenuity 13 LLC v. John Doe, No. 2:12-cv-9333-ODW(JCx) (C.D. Cal. May 6,  
16 2013); Voltage Pictures, LLC v. Does 1-12, No. 2:13-292-AA (D. Or. May 4, 2013).

17 Having reviewed the record in this and related cases as well as the relevant  
18 case law, it is hereby ORDERED as follows:

19 1. Any and all subpoenas issued in the above-captioned matter are hereby  
20 QUASHED. Plaintiff shall immediately notify the subpoena recipients that they need not  
21 respond.

22 2. To the extent plaintiff has obtained identifying information regarding one or  
23 more Doe defendants, whether through the service provider, defendant, or another source,  
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25 <sup>1</sup> One defendant has filed an answer (Dkt. # 7), but there is no indication that he  
26 became aware of this litigation through personal service.

1 it shall not utilize that information in any way. If plaintiff has already contacted one or  
2 more of the defendants, it shall file under seal all correspondence or other written  
3 communications (including emails) sent to defendants and a summary of any oral  
4 communications. Plaintiff shall refrain from any further oral or written communications  
5 with defendants unless expressly approved by the Court in advance.

6 3. Plaintiff shall, within fourteen days of the date of this Order, show cause why  
7 the above-captioned matter should not be dismissed as to all defendants other than Doe 1  
8 for improper joinder and/or pursuant to the Court's inherent authority to control its  
9 docket.

10 4. Plaintiff shall, within fourteen days of the date of this Order, show cause why  
11 the above-captioned matter should not be dismissed as to all defendants for failure to  
12 timely serve.

13 5. Plaintiff shall, within fourteen days of the date of this Order, provide additional  
14 information regarding (a) R&D Film 1, LLC's ownership of the copyright at issue and  
15 (b) R&D Film 1, LLC's direct and indirect members/owners/stakeholders. Plaintiff shall  
16 provide a copy of any and all transfer statements and/or work-for-hire agreements  
17 supporting a determination that R&D Film 1, LLC has standing to pursue this action.  
18 Plaintiff shall also supplement the corporate disclosure statement filed in this action (Dkt.  
19 # 2) by providing the registration information for General Media Company maintained by  
20 the Secretary of State<sup>2</sup> and identifying all members/owners/stakeholders of General  
21 Media Company, both direct and indirect, in the form of an organizational tree that  
22 reaches back far enough to reveal all individual members/owners/stakeholders and  
23 publicly-traded corporations.

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25 <sup>2</sup> An unofficial search of the California Secretary of State's on-line records reveals contact  
26 information for General Media Company that is inconsistent with that provided to the Court on January 9,  
2013.

6. With the exception of the actions specifically set forth in this Order, the above-captioned matter is hereby STAYED.

The Clerk of Court is directed to place this Order to Show Cause on the Court's calendar for Friday, May 24, 2013.

Dated this 9th day of May, 2013.

Robert S. Lasnik  
Robert S. Lasnik  
United States District Judge